

REMARKS

Independent Claims 1, 48 and 53

Prior to this Amendment, independent method claims 1 and 53 included the limitation of “accepting the updated mobile device configuration or reverting to the baseline mobile device configuration based on the user selection.” Independent device claim 48 included a corresponding means-plus-function limitation.

Claims 1, 48 and 53 are herein amended to clarify that this limitation requires **both** “accepting the updated mobile device configuration if the user selects the updated mobile device configuration” **and** “reverting to the baseline mobile device configuration if the user selects the baseline mobile device configuration.” This is in response to the Examiner, in his basis for rejection in the final Office Action, disregarding the reverting step as though it were optional.

Since the reverting step, included in each independent claim, is a claim requirement that is not purported in the Office Action to be taught by the cited art, the application is patentable over the cited art. This is explained in more detail as follows, along with other grounds for patentability.

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2004/0192282 (Vasudevan) in view of U.S. Patent No. 5,008,814 (Mathur) and further in view of U.S. Publication No. 2004/0243993 (Okonnen). With regard to the combination of Vasudevan and Mathur, the office action admits that the combination of references fails to teach numerous claim limitations:

[The combination of Vasudevan and Mathur] fails to explicitly teach determining whether an update resource is stored in the mobile device memory during an initialization of the mobile device; upon determining that the update resource is stored in the mobile device memory during an initialization of the mobile device, prompting a mobile device user to select one of the baseline mobile device configuration or updated mobile device configuration; and accepting the updated mobile device configuration or reverting to the baseline mobile device configuration based on the user selection. (Office Action, p. 5.)

The office action cites to Okonnen as allegedly teaching the missing subject matter from both Vasudevan and Mathur. Specifically, the office action cites paragraphs 55 and 57-59 of Okonnen. Okonnen, though, does not disclose the subject matter that is absent from Vasudevan and Mathur. As noted above, claim 1 recites “prompting a mobile device user to select one of the baseline mobile device configuration or updated mobile device configuration” and “accepting the updated mobile

device configuration if the user selects the updated mobile device configuration” and “reverting to the baseline mobile device configuration if the user selects the baseline mobile device configuration.” By contrast, the cited passages from Okonnen make clear that there is no “prompt” to a mobile device user to select one of a baseline configuration or an updated configuration, nor is an updated configuration “accepted” or a reversion to a baseline configuration made based on a choice by the mobile device user. Thus, the final two steps of claim 1 are clearly missing from Okonnen.

The cited passages from Okonnen teach that a user is presented with “[a] list of provisioned update agents,” and if the user selects an update agent, “the UA loader 127 may invoke the selected provisioned update agent and transfer control to the selected update agent.” (Okonnen, ¶ 58.) Okonnen also teaches, though, that a particular update agent is used to update a particular aspect of the mobile handset, a fact that the office action acknowledges when it states, “based on the selection by the end-user, an update to a particular firmware, software, hardware configuration, etc., in the mobile handset is performed.” (Office Action, p. 6.) This is not the same as the “prompting” and “accepting” steps recited in claim 1. As recited elsewhere in claim 1, “the baseline mobile device configuration is maintained within the mobile device memory for a period of time sufficient to allow the updated mobile device configuration to be tested.” That is, both the baseline configuration and the updated configuration are maintained on the mobile device, and the user is then prompted to select one of the configurations, either accepting the updated configuration or reverting to the baseline configuration. Merely teaching that a user may selectively update one of several aspects of a mobile handset in no way teaches the subject matter admittedly missing from the Vasudevan and Mathur references. For at least these reasons, Applicant submits that the cited references fail to teach every element of claim 1. Thus, claim 1 is allowable and should proceed to issuance.


Independent claims 48 and 53 recite subject matter analogous to the subject matter of claim 1 against which Okonnen was cited, and the office action relies on Okonnen in rejecting these claims. Therefore, claims 48 and 53 are allowable for at least the same reasons as claim 1, and they too should proceed to issuance.

Dependent claims

Each of the dependent claims in the instant application ultimately depends from an independent claim that is allowable, so the dependent claims are also allowable for at least the same reasons as the independent claims.

The application is therefore in condition for allowance.

Respectfully submitted,



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